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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,128	11/03/2003	Steve Simianer	1539.1000	3716
23649	7590	06/30/2004	EXAMINER	
HANES & SCHUTZ, P.C. 102 S. TEJON ST. SUITE 800 COLORADO SPRINGS, CO 80903			EDELL, JOSEPH F	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/700,128	Applicant(s) SIMIANER, STEVE	
	Examiner Joseph F Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 8 and 16, there is inconsistency between the language in the preamble of claims 1 and 9 reciting a reinforcer as the invention and the language in claims 8 and 16 reciting structure of the seat thereby making the scope of the claims indefinite. The applicant must clarify what the claims are intended to be drawn to i.e., either the reinforcer alone or the combination of the reinforcer and seat, and the language of claims must be consistent with the intent.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1, 4, 7-9, 12, 15, and 16, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,322,959 to Sawasaki.

Sawasaki discloses a reinforcer that includes all the limitations recited in claims 1, 4, 7-9, 12, 15, and 16, as best understood. Sawasaki shows a reinforcer having a flexible panel 6 (Fig. 2) with inner and outer perimeters that define an opening 16 (Fig. 5), and at least one tightener 9,13 (Fig. 3) secured at the inner and outer perimeters wherein the tightener is a drawstring.

5. Claims 1, 5, 7-9, 13, 15, and 16, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,946,221 to Livingston.

Livingston discloses a reinforcer that includes all the limitations recited in claims 1, 5, 7-9, 13, 15, and 16, as best understood. Livingston shows a reinforcer having a flexible panel 12 (Fig. 1) with inner and outer perimeters that define an opening 19 (Fig. 1), and at least one tightener 22 (Fig. 2) secured at the inner and outer perimeters wherein the tightener is an elastic strip.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 2, 3, 5, 6, 10, 11, 13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawasaki in view of Livingston.

Sawasaki discloses a reinforcer that is basically that same as that recited in claims 2, 3, 5, 6, 10, 11, 13, and 15 except that the at least one tightener is secured to each of the inner and outer perimeters and is not an elastic strip, as recited in the claims. Livingston shows a reinforcer similar to that of Sawasaki wherein the reinforcer has an elastic strip 22 (Fig. 2). In addition, the duplication of parts for a multiplied effect has no patentable significance. Therefore, it would have been well within the purview and obvious to one skilled in the art at the time the invention was made to provide a tightener on each of the inner and outer perimeters that is an elastic strip for enhancing the safety and strength of the reinforcer by further securing the perimeters. One would have been motivated to modify the tightener such that it is an elastic strip in view of the suggestion in Livingston that the elastic strip stretches to fit over a seat. Lastly, any tightener of reasonable size inherently meets the intended use in claims 6 and 14 citing that the tightener is configured to pass through a hole in the sitting surface of the seat.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to reinforcers:

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U.S. Pat. No. 1,701,441 to Coppock

U.S. Pat. No. 2,483,223 to Moss

U.S. Pat. No. 2,933,014 to Hume

U.S. Pat. No. 6,209,953 B1 to Mackay et al.

U.S. Pat. No. 6,481,793 B1 to Horn


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.



JE

June 24, 2004



Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600